

Khryapinsky P., Svitlychny O. Circumstances refer to criminal responsibility for development of smokers: current state and prospects of improvement

The circumstances that increase the criminal liability for the deprivation of minors are the commission of perjury against a minor or committed by family members or close relatives, a person assigned responsibility for the upbringing of the victim or the care of the victim (Part 2 of Article 156 of the Criminal Code Code of Ukraine (hereinafter referred to as the CC) These circumstances are grounds for differentiation of criminal liability at the legislative level, because they reflect a significant increase in the typical degree of public danger of a crime.

The purpose of this article is to isolate and study the circumstances that increase the criminal liability for the abuse of minors, and thus form the qualified members of this crime.

The approach of the domestic legislator is substantiated by the circumstances, which increase the criminal liability for depravity actions by direct indication of the young age of the victim, the family or professional duties of certain subjects regarding the upbringing and care of the victim or caring about him. Similarly, other qualified structures of crimes against sexual freedom and sexual integrity of a person who can be committed solely by a special subject are constructed.

Determination of a minor in the context of a circumstance that increases the criminal responsibility for committing perjury acts is a logical and consistent step towards strengthening the criminal and legal protection of the sexual integrity of this particularly vulnerable circle of children. Young people should recognize the victims who have not reached the age of 14 at the time of the crime. Criminal responsibility for perpetrating acts against such a person occurs only if the guilty person was aware (knowingly or reasonably) that he was committing such actions against a minor or a minor, as well as when he should and could have realized it. In this case, the court must take into account not only the testimony of the defendant, but also the victim, carefully check their compliance with all the specific circumstances of the case. In resolving this issue, account is taken of the entire set of circumstances of the case, in particular, the external physical data of the victim, his behavior, acquaintance of the guilty person with her, possession of the guilty person with relevant information.

Young people under the age of twelve are the most vulnerable in the sexual sense. As noted, young people under the age of twelve, for the most part, have a complex helpless state, conditioned by physical and mental helplessness. On the one hand, the physical development of young people is characterized by undeveloped musculoskeletal and muscular structure. They, as a rule, can not exercise physical activity in an adult. On the other hand - young people are mentally underdeveloped, they lack the knowledge and life experience to correctly perceive the situation, find an adequate solution. Psychologists are unanimous in the fact that the self-esteem of these children is imperfect, they are trusting, naive, unshakable, straightforward, have extraordinary suggestibility, especially from the part of authoritative young adults. Consequently, minors under the age of twelve do not even have hypothetical chances to win a physical or mental confrontation with an adult. Also, note that in the case law on crimes against sexual integrity and the doctrine of criminal law, the minor age of the victim or victim is an unconditional indication of their helpless state.

The article explores the place and significance of the circumstances that enhance criminal responsibility for committing depraved acts against minors. The conclusion on introduction of new aggravating circumstances in part 2 of Art. 156 of the Criminal Code «the same actions committed repeatedly or by a person who previously committed any of the crimes provided for in articles 152-155 of this Code» and the creation of a new part 3 of Art. 156 of the Criminal Code «the same actions committed against a minor or a minor, under the age of twelve».

Key words: corruption, special subject of crime, dissipation, repetition, minor and minor age of the victim.